

CHAPTER 18.5-02-02 INFORMAL MEDIATION

Section

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18.5-02-02-01. Eligibility for informal mediation. The board may require that an applicant for the assistance of a negotiator in informal mediation make written application on such a form as may be required by the board. To be eligible for assistance in informal mediation pursuant to North Dakota Century Code chapter 6-09.10, a farmer must be a farmer as defined in subsection 2 of North Dakota Century Code section 6-09.10-01.

History: Effective January 13, 1989; amended effective December 1, 1989; January 1, 1992.

General Authority: NDCC 6-09.10-09

Law Implemented: NDCC 6-09.10-01, 6-09.10-03, 6-09.10-04, 57-02-08

18.5-02-02-02. Informal mediation proceedings.

1. Upon receipt of the application or request and a determination that the person is eligible for assistance, the administrator shall assign a negotiator to assist in the informal mediation of a settlement between the farmer and another person that accomplishes the objectives of the informal mediation process.
2. The objectives of the informal mediation process are to assist the farmer in obtaining a settlement that will permit the farmer to reside in the farm residence and to continue to produce agricultural commodities, as well as to provide negotiation assistance and information regarding farm problems. If the negotiator is unable to effect a settlement of the farmer's debt or other resolution of the farmer's problems, the negotiator may, upon written application by the farmer to the board, work with the lender and the farmer to negotiate a purchase, repurchase, refinancing, or redemption of the farmer's home-quarter.
3. The negotiator is an authorized agent of the service and the board who shall report to and be responsible to the administrator in the informal mediation process. At the conclusion of the informal mediation, the negotiator shall report to the administrator the outcome of the negotiations and any settlement that may have been accomplished.

4. Because each farmer's situation is fact specific, the negotiator shall have broad discretion to work out a financial settlement as appropriate and as approved by the farmer.

History: Effective January 13, 1989; amended effective December 1, 1989; January 1, 1992.

General Authority: NDCC 6-09.10-09

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18.5-02-02-03. Duties of a negotiator. During the informal mediation process, the negotiator shall:

1. Assist the farmer in compiling information about the farm operation and its financing and organizing that information into a useful format.
2. Assist the farmer in mediating a settlement so as to achieve the objectives of the informal mediation process.
3. Advise the farmer of the various alternatives that may be open to the farmer in negotiating a settlement or other resolution.
4. Where legal or tax issues are involved, advise the farmer of the necessity of seeking competent legal and tax advice from qualified professionals before entering into any binding agreement regarding the settlement or other resolution of the farmer's problems. The negotiator should make it clear to the farmer that the negotiator is not qualified to give legal or tax advice and cannot be held responsible for decisions regarding legal or tax issues, defenses, or counterclaims.

History: Effective January 13, 1989; amended effective January 1, 1992.

General Authority: NDCC 6-09.10-09

Law Implemented: NDCC 6-09.10-03, 6-09.10-04